

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

SHANNA M. GLYNN,

Plaintiff,

v

MARQUETTE CITY POLICE
DEPARTMENT, and the STATE OF
MICHIGAN

Defendants.

No. 2:24-cv-00019

HON. ROBERT J. JONKER

MAG. MAARTEN VERMAAT

Shanna M. Glynn, pro se Plaintiff
8180 County Rd. 550
Marquette, MI 49855
(906) 250-3037

Shelley M. McCormick (P80311)
Attorney for Defendant State of Michigan
Michigan Dep't of Attorney General
State Operations Division
P.O. Box 30754
Lansing, MI 48909
(517) 335-7573
McCormickS1@michigan.gov

Gretchen L. Olsen (P36619)
Attorneys for Marquette City Police
Department
Tanoury Nauts McKinney & Dwaihy,
PLLC
38777 Six Mile Road, Ste. 101
Livonia, MI 48152
(313) 964-4500; (734) 469-4298 (Fax)
gretchen.olsen@tnmglaw.com

**REPLY BRIEF IN SUPPORT OF DEFENDANT
STATE OF MICHIGAN'S MOTION TO DISMISS**

Nothing in Plaintiff's response¹ to Defendant State of Michigan's motion to dismiss overcomes the State's sovereign immunity. While local governing bodies

¹ Plaintiff's brief failed to include a certificate of compliance as required by W.D. Mich. LCivR 7.2(b)(ii).

can be sued under § 1983 for monetary, declaratory, or injunctive relief, local government units “are not considered part of the State for Eleventh Amendment purposes”. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 690, n 54, (1978).

Thus, Plaintiff’s lawsuit against the State of Michigan is barred by the Eleventh Amendment because Plaintiff cannot establish that the State consented to the filing of such a suit, *Alabama v. Pugh*, 438 U.S. 781, 782 (1978), or that Congress expressly abrogated Eleventh Amendment immunity. *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 99 (1984). She admits the State did not consent to suit; she “never spoke to a single person who helped me, or could have granted that type of permission.” (ECF No. 11, PageID.86.) And it is well established that 42 U.S.C. § 1983 does not abrogate the Eleventh Amendment. See *Quern v. Jordan*, 440 U.S. 332, 341 (1979).

Plaintiff has failed to plead a cognizable § 1983 claim. Admittedly, Plaintiff “does not know who to sue.” (ECF No. 11, PageID.11.) Nonetheless, her complaint must still comport with basic, minimum pleading requirements and plead factual content that allows this Court to draw a reasonable inference that the State of Michigan is liable for the misconduct alleged. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The federal rules do not “unlock the doors of discovery for a plaintiff armed with nothing more than conclusions.” *Id.* at 678–679.

Here, amendment would be futile and discovery would have no impact on the resolution of the State’s threshold legal defense. The State of Michigan is entitled

to immunity and is not a person subject to suit under 42 U.S.C. § 1983. *Will v. Dept of State Police*, 491 U.S. 588, 66 (1989).

CONCLUSION AND RELIEF REQUESTED

Defendant, State of Michigan, respectfully requests that the Court (1) grant its motion, (2) dismiss this action in its entirety, and (3) grant any other appropriate relief.

Respectfully submitted,

/s/ Shelley M. McCormick
Assistant Attorney General
Attorney for Defendant State
of Michigan, only
Mich Dep't of Attorney General
State Operations Division
P.O. Box 30754
Lansing, MI 48909
(517) 335-7573
McCormickS1@michigan.gov
(P80311)

Dated: March 20, 2024

2024-0396253-A

PROOF OF SERVICE (E-FILE and U.S. MAIL)

I hereby certify that on March 20, 2024, I electronically filed the foregoing document(s) with the Clerk of the Court using the ECF System, which will provide electronic notice and copies of such filing to all counsel of record, and a copy was mailed by United States Postal Service to the following non-ECF participants:

Shanna M. Glynn
8180 County Rd. 550
Marquette, MI 49855

A courtesy copy of the aforementioned document was placed in U.S. mail directed to:

Magistrate Judge Maarten Vermaat
U.S. Western District Court
P.O. Box 698
Marquette, MI 49855

/s/ Shelley M. McCormick
Assistant Attorney General
Attorney for Defendant State
of Michigan, only
Mich Dep't of Attorney General
State Operations Division
P.O. Box 30754
Lansing, MI 48909
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McCormickS1@michigan.gov
(P80311)

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